

REMARKS

The amendatory transitional language "consisting essentially of" restricts the scope of the protection sought.

Support for the recited homopolycarbonate is found in the specification in page 5, line 20.

Claim 4 stands rejected under 35 U.S.C. 112 second paragraph, the Examiner perceives an inconsistency in its recitation of component B.

To clarify, component B is a copolymer of B.1 and B.2. This means that for a copolymer to fall within the scope of protection it needs to include units derived from each of B.1 and B.2, where B.1 is 50 to 99 pbw of any of vinyl aromatics, methacrylic acid (C₁₋₈)-alkyl ester and B.2 is 1 to 50 pbw of any of vinyl cyanides, methacrylic acid-(C₁₋₈)-alkyl esters, unsaturated carboxylic acids and derivatives of unsaturated carboxylic acids.

The Examiner sees inconsistency in that the claim "allows" 50 to 99% methacrylic esters "but later limits" these esters to 1 to 50%.

The term "allows" used in construing the present context is problematic. Rather than "allowing" certain elements, the correct construction is that the claim "embraces" such elements. Referring to the Examiner's specific question, the copolymer at issue is derived from any methacrylic acid (C₁₋₈-alkyl) esters. The specific member of this group of methacrylic acid (C₁₋₈-alkyl) esters (herein "Specific Member") may be present in the copolymer as either a minor or a major component. In the instances where the Specific Member is a major component, that is 50 to 99 pbw, the copolymer also includes 1 to 50 pbw of units derived from any of the members of B.2, including any member of methacrylic acid (C₁₋₈-alkyl) esters that are not Specific Member.

In view of the above, the rejection of Claim 4 under Section 112 is requested to be reconsidered and retracted.

Claims 1-10 stand rejected under 35 U.S.C. 102(e) or in the alternative under 35 U.S.C. 103(a) over Nodera et al. (U.S. Patent 6,150,443 - herein Nodera).

Nodera disclosed a flame retardant composition containing presently relevant components and a flame retardant. Examples 5 and 6 describe compositions containing a flame retarding agent.

As presently amended, the scope of the instant claims is limited to the specified materials and those that do not materially affect the basic and novel characteristics of the claimed composition. The amendment effectively excludes Nodera's flame retardants.

The Nodera document is believed avoided and the rejection based thereon is requested to be reconsidered and withdrawn.

Claims 1-9 stand rejected under section 35 U.S.C. 102 or in the alternative under 35 U.S.C.103 (a) over WO/12629 (equivalent to U.S. Patent 6,403,683 - herein Kobayashi).

Kobayashi disclosed a composition containing presently relevant components and a phosphate based flame retardant.

As presently amended, the scope of the instant claims is limited to the specified materials and those that do not materially affect the basic and novel characteristics of the claimed composition. The amendment effectively excludes Kobayashi's flame retardants.

The Kobayashi document is believed avoided and the rejection based thereon is requested to be reconsidered and withdrawn.

Claims 1-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Fujiguchi et al (U.S. Patent 5,602,201- herein Fujiguchi) in view of Obayashi (U.S. Patent 5,807,914 – herein Obayashi).


Fujiguchi disclosed a composition containing a copolymeric polycarbonate having specific structural units. The referenced copolymeric carbonate does not describe component A, as presently amended. Obayashi disclosed a composition that includes an aromatic polycarbonate oligomer.

The present amendment that restricts the scope of the protection as noted above excludes Fujiguchi's copolymeric polycarbonate and Obayashi's oligomer. As such, it is believed to address the stated rejection and overcome the same.

Reconsideration and withdrawal of the rejection under section 103 is requested.

Believing the above represents a complete response to the Office Action and that the application is in condition for allowance, Applicants request the earliest issuance of an indication to this effect.

Respectfully submitted,

By  _____
Aron Preis
Attorney for Applicants
Reg. No. 29,426

Bayer Polymers LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3814
FACSIMILE PHONE NUMBER:
(412) 777-3902
lo/PREIS/ap174